

***Status of Application***

1. Acknowledgment is made of the amendments filed 04/14/2010. Upon entering the amendments, claims 21-24, 32, and 36-37 are cancelled and claims 25, 28, 33-35, and 38-40 are amended. Claims 25-31, 33-35, and 38-40 are pending and presented for examination.

**EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Barry Shuman on 06/09/2010.

The application has been amended as follows:

Claim 38, line 8, after "comprising" delete "a process for".

Claim 38, line 14, after "metal oxides," delete "a process for".

Claim 38, line 15, after "forming the" delete "mixed ceramic powder" and insert - - mixture - - .

Claim 38, lines 15-16, after "predetermined shape and" delete "a process for".

Claim 38, line 17, after "sintered" delete "ceramics" and insert - - ceramic - - .

Claim 39, lines 2-3, after "which comprises" delete "the process for sintering of" and insert - - sintering - - .

Claim 39, line 4, after "and" delete "a process for".

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Claim 39, line 4, after "the sintered" delete "ceramics" and insert - - ceramic - - .

Claim 40, line 2, after "claim 38" delete "wherein hot isostatic treatment is applied" and insert - - further comprising applying hot isostatic treatment - - .

### ***Specification***

3. The previously issued objection to the Specification is withdrawn upon the amendments to the Specification filed 04/14/2010.

### ***Claim Objections***

4. Claims 39-40 have been amended to correct their dependencies, and thus the previously issued objections to the claims are withdrawn.

### ***Claim Rejections - 35 USC § 112***

5. Claims 21-24, 32, and 36-37 are cancelled, rendering moot the indefiniteness rejections. The remaining claims have been amended as suggested in the previously issued office action and their scopes are now clear.

### ***Claim Rejections - 35 USC § 102 and 35 USC § 103***

6. The prior art rejections of claims 21-24, 32, and 36-37 are moot in view of the cancellation of the claims.

### ***Double Patenting***

7. The previously issued nonstatutory obviousness-type double patenting rejections of claims 25-31 and 33-34 are withdrawn upon the receipt and approval of the Terminal Disclaimer filed 04/14/2010.

***Response to Arguments***

8. Applicant's arguments correctly show that all of the grounds of objection and rejection of the instant claims and specification are overcome by the cancellation of and amendments to the claims. The application is therefore in condition for allowance.

***Allowable Subject Matter***

9. Claims 25-31, 33-35, and 38-40 are allowed.

***Reasons for Allowance***

10. The following is an examiner's statement of reasons for allowance: The prior art of record, either alone or in combination, fails to anticipate or render obvious the instantly claimed biomedical member and method of producing same. Specifically, the prior art fails to teach a biomedical member of a composite ceramic material having alumina and zirconia phases in the amounts and grain sizes specified in the claims, as well as having a metal or metal oxide phase chosen from those of the claims and also containing sintering additives of the types and amounts given in the instant claims.

The most relevant prior art references found are Yoshida et al (JP 2000-191372-A), Yamazaki et al (US 5525560), and Koyama et al (US 5686366). The difference from instant claims is that while Yoshida et al, Yamazaki et al, and Koyama et al teaches alumina-zirconia composite ceramics that can be made into biomedical members, none of the patents teaches that the composite ceramic contains all of the phases and additives of the instant claims in the amounts and grain sizes specified. For the above,

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reasons, the subject matter of the amended instant claims is neither taught nor suggested by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOAH S. WIESE whose telephone number is (571)270-3596. The examiner can normally be reached on Monday-Friday, 7:30am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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